XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH:

HON'BLE MR. L.C. BHADOO &
HON'BLE MR. DHIRENDRA MISHRA, JJ

CRIMINAL APPEAL NO.760/2002

APPELLANT Puranlal s/o Tejau, aged 30 years, resident Bargaon, P.S. Pamgarh, District Janjgir-Champa.

Versus

RESPONDENT State of Chhattisgarh.

Present:

Mr. B.N. Pandey, Advocate for the appellant.
Mr. M.P.S. Bhatia, Panel Lawyer for the respondent-State.

ORAL JUDGMENT

(9th May, 2007)

Per L.C. Bhadoo, J:

This appeal is directed against the judgment of conviction and order of sentence dated 26th June, 2002 passed by learned Additional Sessions Judge, Janjgir in S.T. No.142/2000 whereby learned Additional Sessions Judge after holding the accused/appellant guilty for commission of offence under Section 302 of the IPC, sentenced

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him to undergo R.I. for life and to pay a fine of Rs.100/- for each murder.

Case of the prosecution, in brief, is that accused/appellant herein, his wife Lachhmati Ba (since deceased) & son Sonu alias Sukhram (since deceased) were living together and on the date of incident i.e. 11.1.2000 they were in the room. First of all, Dokra, grandfather of accused, went to the room of the accused but accused did not open the room from the inside, therefore, Dokra informed Village Kotwar and thereafter, they went to the Police Station Pamgarh from where Shri N.L. Dhritlehre (PW-15), S.H.O., Police Station Pamgarh came on the scene of occurrence. Villagers also assembled there. When the accused did not open the door of room, the door was opened with the help of crowbar and it was found that bodies of Lachhmati Bai & Sonu were lying inside the room in injured condition and the accused was in the room holding the blood stained pickaxe in his hand. In the room itself, there was a pit also. Village Kotwar Laxmandas (PW-18) informed the Police Station Pamgarh and the said information was recorded in the Roznamchasanha, copy of which is Ex.P-10. Dehati merg intimation (Ex.P-12) of murder of Lachhmati Bai and Dehati merg intimation (Ex.P-13) of murder of Sonu were given by Laxmandas. Merg Intimation (Ex.P-15) regarding death

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	of Lachhmati Bai and merg intimation (Ex.P-16) regarding death of Sonu were given in the police station. Shri N.L. Dhritlehre (PW-15) gave dehati nalishi (Ex.P-14) based on which First Information Report (Ex.P-17) was registered. Investigating Officer after giving notices Ex.P-18 & Ex.P-19 to the Panchas prepared inquest Ex.P-20 on the body of Lachhmati Bai & Ex.P-21 on the body of Sonu. Dead bodies of Lachhmati Bai & Sonu were sent under Ex.P-22 & Ex.P-23 respectively for postmortem examination to Primary Health Centre, Pamgarh, where Dr. D.C. Choudhary (PW-3) conducted postmortem on the body of Lachhmati Bai, prepared the report Ex.P-5 and opined that the cause of death was due to severe haemorrhage on account of cutting of vessels of neck and the death was homicidal in nature. He also conducted postmortem on the body of Sonu, prepared the report Ex.P-6 and opined that the cause of death is excessive haemorrhage on account of cutting of vessels of neck and the death was homicidal in nature. Blood stained and plain soil was seized from the place of occurrence under Ex.P-26. Clothes of deceased were seized under Ex.P-27. Pickaxe, weapon of offence, was sent to the doctor for his opinion and the doctor gave his opinion (Ex.P-7) wherein he has opined that injuries found on the body of deceased persons could be caused by the weapon in question. Pickaxe, weapon of offence, was seized by	

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आदेश पत्रक (पूर्वानुबद्ध)

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the Investigating Officer under Ex.P-25. Site Plan (Ex.P-2) was prepared by the Patwari (PW-2).

After completion of investigation, charge sheet was filed in the Court of Judicial Magistrate 1st Class, Janjgir who in turn committed the case to learned Sessions Judge, Bilaspur from where learned Additional Sessions Judge received the case on transfer for trial. The prosecution examined 18 witnesses at the trial in order to establish the charge against the accused/appellant. Statement of accused/appellant was recorded under Section 313 of Cr.P.C. in which he denied the material appearing against him in the prosecution evidence and stated that he is innocent and has been falsely implicated in the crime.

Learned Additional Sessions Judge after hearing the arguments of learned counsel for the respective parties, convicted and sentenced the accused/appellant, as aforementioned.

We have heard Mr. B.N. Pandey, Advocate for the appellant and Mr. M.P.S. Bhatia, P.L. for the respondent/State.

Mr. Pandey has not disputed the homicidal deaths of Lachhmati Bai & Sonu. Moreover, Dr. D.C. Choudhary (PW-3) has stated that on 11.1.2000 he was working as Medical Officer, PHC Pamgarh, on that

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day the body of Sonu alias Sukhram, s/o Puranlal, aged about 5 years, was brought for postmortem examination. He conducted postmortem on the body of Sonu, there were ten incised wounds on the body of Sonu, the cause of death was excessive haemorrhage and death was homicidal in nature. His report is Ex.P-5. He also stated that on the same day he conducted postmortem on the body of Lachhmati Bai, there were 12 incised wounds, veins of neck, spinal cord, vertebra column were broken and nature of death was homicidal. His report is Ex.P-6

Therefore, in view of the above medical evidence, it is established that deaths of Lachhmati Bai & Sonu were homicidal in nature.

As far as involvement of accused/appellant in the crime in question is concerned, there is no direct or ocular evidence in this case and the whole case rests upon the circumstantial evidence and the prosecution has tried to establish the charge against the accused/appellant based on the following circumstances:

I. That, the accused used to beat and subject to cruelty deceased Lachhmati Bai.

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II. That, on the date of incident accused was found in the room where dead bodies were lying, the room was bolted from the inside and even asking by the police officer and the villagers the accused did not open the door. Thereafter, the door was opened with the help of crow bar and the dead bodies & accused were found inside the room.

1st Circumstance;

So far as this circumstance is concerned, Bisahuram (PW-9), father of deceased, has stated that Lachhmati Bai was his daughter, she was married to the accused 9-10 years prior to date of his evidence dated 7.11.2001, after the marriage one son namely Sonu was born, the accused used to give beating to Lachhmati Bai, therefore, he brought back Lachhmati Bai to his house. He persuaded Lachhmati Bai to go to the house of Puranlal, but she refused to go. When he brought Lachhmati Bai, she was pregnant and she delivered second child in his house. Thereafter the accused came to his house and requested that Lachhmati be sent to his place and he will not beat her, on which Lachhmati Bai along with her two sons went to the place of accused in Village Bargaon. Thereafter, on the occasion of Cherichera festival he brought back Lachhmati Bai to his house, where

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आदेश पत्रक (पूर्वानुबद्ध)

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Lachhmati disclosed to him that accused is regularly beating her mercilessly. 8-10 days thereafter, the accused came to his house to take Lachhmati but she refused to go with the accused on the ground that he is in the habit of beating her. Thereafter, accused came along with Jhaduram & Kumar to take Lachhmati, but his daughter did not agree to go to the house of accused on the ground that he is in the habit of beating her. Thereafter, parents of accused came and requested that Lachhmati be sent to her matrimonial home and they assured that accused will not give beating to her. On their assurance Lachhmati was sent and thereafter on the fateful day he came to know that accused has murdered Lachhmati and her son Sonu.

Similar is the evidence of PW-11 Chheeta Bai, mother of deceased Lachhmati Bai, PW-12 Bhagirathi & PW-14 Sanat Kashyap, brothers of deceased Lachhmati Bai.

In the cross-examination of the above witnesses the defence has not been able to elicit any circumstance which discredit the evidence of these witnesses, therefore, it is established that the accused was in the habit of beating deceased Lachhmati Bai that is why she most of the times was residing in her parental home and few days before her death, parents of accused brought her along with her

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आदेश पत्रक (पूर्वानुबद्ध)

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two sons to the house of accused where she and her son Sonu have been murdered.

2nd *Circumstance*;

So far as this circumstance is concerned, even though the independent witnesses namely Mogra Bai (PW-4), Brijbhusan (PW-5), Dokra (PW-7), Tijau (PW-8), Jhaduram (PW-13) & Dataram (PW-17) have turned hostile and they have not supported the prosecution case. Even the Village Kotwar namely Laxman Das (PW-18), who lodged the report, has turned hostile, at one hand he has stated in Paragraph 11 of his evidence that when the room was opened the accused was in the room carrying blood stained axe in his hand, but thereafter in the cross-examination by counsel for the accused he has not supported the prosecution case and stated that when he came bodies of deceased persons were lying outside the room covered with cloth and Sub Inspector, Police, was also present there.

PW-15 Shri N.L. Dhritlehre, Investigating Officer & S.H.O., P.S. Pamgarh has stated that on 11.1.2000 Kotwar Laxman Das (PW-18) came and informed that today Dokra came to him and informed that Pooranlal is not opening the door of his room, he is saying that he will open the door only when the police will come and it appears that since he is not opening the door, there must have been an unusual incident

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inside the room. He ~~lodged~~ registered the report given by Laxman Das in Roznamchasanha at Sr. No.10 which is Ex.P-10 and thereafter proceeded at about 13.10 hrs for Village Bargaon. When he reached on the spot, he saw that room of Pooranlal was bolted from the inside, the same was got opened with the help of crowbar and after opening the door it was seen that bodies of Lachhmati Bai & Sonu were lying on the ground, near their bodies there was a pit and on the head side of their bodies accused Pooranlal holding blood stained pickaxe in his hand was standing. He was caught by the police. Panchnamas of bodies were prepared and merg intimation Ex.P-12 was given by Laxmandas (PW-18).

In view of the above evidence of PW-15 Shri N.L. Dhritlehre it is established that the bodies in injured conditions were lying in the room of the accused, there was a pit by the side of bodies and accused was standing by the side of the deceased persons holding blood stained pickaxe in his hand. Moreover, in the cross-examination of this witness the defence has not been able to establish that the evidence of Investigating Officer (PW-15) is not worth reliance. It is true that he is the Police Officer and Investigating Officer but nothing has been brought in the cross examination that this witness has, for any reasons, deposed against the accused in order to

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आदेश पत्रक (पूर्वानुबद्ध)

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implicate him in a false case that too for the murders of his wife & son. In the statement of accused, the accused has simply denied the material appearing against him in the prosecution evidence and he has not stated anything or explained that how the deaths of Lachhmati Bai and Sonu were caused. Even as per evidence of Dr. D.C. Choudhary (PW-3) there were 10 incised wounds on the body of deceased Sonu and there were 12 incised wounds on the body of deceased Lachhmati Bai, but the accused has not explained that how these fatal injuries were sustained by both the deceased persons, on the contrary, the accused was caught holding blood stained axe in his hand by the police.

Mr. Pandey argued that in the site plan (Ex.P-2) prepared by the Halka Patwari (PW-2) the place of room where the accused was standing has not been shown, but in view of the evidence of Investigating Officer (PW-15) even if this fact has not been shown in the site plan prepared by the Halka Patwari, the evidence of Investigating Officer cannot be discredited.

Mr. Pandey also argued that injuries present on the bodies of deceased could not be caused by the pickaxe, which was seized, but we do not find any substance in this argument, for the reason, that pickaxe in question was sent for examination to Dr. D.C. Choudhary (PW-3) and he has given his report Ex.P-7 in which he has stated in

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categorical terms that the injuries found on the bodies of Lachhmati Bai & Sonu could be caused by the pickaxe in question.

Therefore, for the foregoing reasons, that the accused was in the habit of giving beating Lachhmati Bai mercilessly, he was found near the dead bodies of Lachhmati Bai & Sonu holding blood stained pickaxe in his hand and the room, where the dead bodies of deceased persons and accused were seen, was bolted from the inside, we are of the considered opinion that from the above circumstantial evidence the prosecution has been able to establish the charge against the accused beyond reasonable doubt.

In the result, we do not find any illegality or infirmity in the impugned judgment of the trial court, the appeal of the appellant being devoid of merit is liable to be dismissed and it is hereby dismissed.

Sd/-
Dhirendra Mishra
Judge

Sd/-
L.C. Bhadoo
Judge

Roshan/-